Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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NO. 85-1164

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

TEXAS ENERGY INVESTMENT CORP. AND ADVANCED TECHNOLOGY, LTD.,
Petitioners,

v.

NIMROD MARKETING (OVERSEAS) LTD. AND TOM ANDERSON-SLIGHT,
Respondents.

PETITIONERS' SUPPLEMENTAL APPENDIX TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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I. RELATIONSHIP OF PARTIES

Pursuant to the request of the Court, petitioners provide the following information regarding the relationship of the parties who have an interest in the outcome of this case. Texas Energy Petroleum Corporation is the parent company. Texas Energy International S.A., Texas Reserve Construction Company, and petitioners are substantially or wholly owned subsidiaries of the parent company.

II. OPINION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

Attached hereto is a copy of the Memorandum and Order of the United States District Court for the Southern District of Texas, Houston Division.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION NO. H-81-3275

NIMROD MARKETING (OVERSEAS) LTD.
and TOM ANDERSON-SLIGHT

v.

TEXAS ENERGY INVESTMENT CORPORATION
AND ADVANCED TECHNOLOGY, INC.

Talbert, Giessel & Stone (Henry P. Giessel), Houston, Texas, Attorneys for Plaintiffs.

Fulbright & Jaworski (Dana Kirk), Houston, Texas, Attorneys for Defendants.

(Filed April 18, 1984)

MEMORANDUM AND ORDER

In Defendants' pending motion for new trial or alternatively motion to amend the judgment, Defendants argue that (1) the Court improperly denied a jury trial, (2) the recovery of cancellation charges is supported by insufficient evidence, (3) the Court incorrectly found liability against the Defendants and (4) the judgment should be amended to be payable in part in foreign currencies at the rate of exchange in effect on the date of judgment.

Defendants' first three grounds are meritless.

As to Defendants' fourth claim, it is well settled that "a money judgment entered by an American court must be in United States currency." *Jamaica Nutrition Holdings v. United Shipping,* 643 F.2d 376, 379 n. 5 (5th Cir. 1981). *See also Frontera Transportation Co. v. Abaunza,* 271 F. 199, 202 (5th Cir. 1921). The "judgment date" rule apparently gives way, at least in diversity contract cases where the law of the forum is applied, to the "date of breach" rule. *Jamaica Nutrition Holdings,* 643 F.2d at 379-81. The exchange rate of $1.90/British pound sterling was obtained from the exhibits introduced into evidence by Plaintiffs. At no time prior to the entry of judgment did Defendants protest the rate or suggest an alternative one, and they have not yet submitted verified proof as to the exchange rate on the date of breach.

The Court finds that the agreement between the parties was breached on November 2, 1981, the day when Anderson-Slight presented the letter detailing Plaintiffs' losses on the project. *See* Finding of Fact 14. The rate of exchange between the United States dollar and the British pound sterling on that date was 1.8725,[1] and the judgment previously entered is AMENDED as follows, pursuant to Fed. R. Civ. P. 52(b), to reflect the stated exchange rate. *See* Conclusion of Law 11.

Total British pounds sterling:	$186,288
	× 1.8725 dollars/pound
	$348,824.28
	+ $116,250.00
	+ $ 13,735.88
Total Recovery	$478,810.16

1. "Foreign Exchange Rates," *Federal Reserve Statistical Release,* week ending November 9, 1981. In this publication the Federal Reserve Bank of New York certifies for customs purposes the noon buying rate in New York City for cable transfers payable in foreign currencies.

DONE at Houston, Texas, this 18th day of April, 1984.

/s/ ROSS N. STERLING
United States District Judge